

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE PRIORITY

C O N F I D E N T I A L STATE 080063

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E.O. 11652: GDS

TAGS: PFOR, PGOV, CS

SUBJECT: VESCO CASE - REQUEST TO HIRE LOCAL ATTORNEY

REF: SAN JOSE 1013

1. IN ORDER TO PREPARE TO REQUEST FOR FUNDING OF SERVICES OF COMPETENT LOCAL ATTORNEY TO ADVISE EMBASSY ON MATTERS RELATING TO EXTRADITION, NEED URGENTLY OUTLINE SCOPE OF WORK CONTEMPLATED AND COST ESTIMATES. WE ENVISION REQUESTING SERVICES FOR INITIAL PERIOD OF APPROXIMATELY ONE MONTH TO SIX WEEKS TO ANSWER QUESTIONS RELEVANT TO CURRENT COSTA RICAN EXTRADITION LAW, OTHER COSTA RICAN LAWS AND COSTA RICAN PROCEDURE. UPON SUCCESSFUL COMPLETION THIS PHASE OF WORK WE WOULD THEN CONSIDER REQUESTING EXTENSION OF SERVICES FOR LONGER PERIOD AS PRELIMINARY TO AND POSSIBLY ENCOMPASSING AN ACTUAL EXTRADITION REQUEST.

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2. URGENTLY NEED EMBASSY'S ADVICE AS TO TYPES OF

QUESTIONS WHICH NEED ANSWERING AND ESTIMATED COST OF SERVICES. FOLLOWING QUESTIONS -- SOME OF WHICH DEVELOPED WITH REFERENCE TO MFA AIDE MEMOIRE OF APRIL 11, 1975 OFFERED AS SAMPLES OF AREAS WHICH APPEAR TO NEED CLARIFICATION. WOULD APPRECIATE EMBASSY'S COMMENTS ON

THESE AS WELL AS SUGGESTIONS FOR AMPLIFYING OR MODIFYING LIST. SAMPLE QUESTIONS:

(A) WHAT WOULD CONSTITUTE "EVIDENCE OF CRIMINALITY JUSTIFYING APPREHENSION AND COMMITMENT FOR TRIAL" ACCORDING TO THE LAWS OF COSTA RICA FOR AN OFFENDER CHARGED WITH FRAUD? FOR EXAMPLE, UNDER U.S. LAW AN INDICTMENT CAN BE OBTAINED WITH A SHOWING OF FAR LESS EVIDENCE THAN WILL LATER BE NECESSARY AT A TRIAL TO PROVE GUILT BEYOND A REASONABLE DOUBT. IN MANY CASES, MUCH INVESTIGATION AND GATHERING OF EVIDENCE TAKES PLACE AFTER THE INDICTMENT.

(B) CAN ANY OF EXTRADITION DOCUMENTATION BE SHOWN IN CONFIDENCE TO THE COURT OR MUST THE DEFENDANT'S COUNSEL HAVE ACCESS TO ALL DOCUMENTS SUBMITTED?

(C) TO WHAT EXTENT IS COSTA RICA BOUND BY ARTICLE 360 OF THE BUSTAMANTE CODE WHICH STATES: "IN ALL CASES IN WHICH THE LEGISLATION OF THE REQUESTED STATE PREVENTS EXTRADITION, IT IS AN INDISPENSABLE REQUIREMENT THAT SUCH LEGISLATION BE ENACTED BEFORE THE COMMISSION OF THE CRIME."

3. IT WOULD BE HELPFUL IF THE ATTORNEY RETAINED WAS VERSED IN THE DETAILS SURROUNDING PAST EXTRADITION REQUESTS, ESPECIALLY ANY REQUESTS MADE SUBSEQUENT TO PASSAGE OF THE 1974 AMENDMENTS TO THE COSTA RICAN EXTRADITION LAW. KISSINGER

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